

House File 651 - Introduced

HOUSE FILE 651
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 187)

A BILL FOR

1 An Act relating to requirements for domestic surplus lines
2 insurers.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 515I.2, Code 2019, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 6A. "*Domestic surplus lines insurer*" means
4 a domestic insurer that has been authorized by the commissioner
5 pursuant to chapter 515I to do business as a domestic surplus
6 lines insurer with which a surplus lines insurance producer may
7 place surplus lines insurance.

8 Sec. 2. Section 515I.2, subsection 7, Code 2019, is amended
9 to read as follows:

10 7. "*Eligible surplus lines insurer*" means either any of the
11 following:

12 a. A nonadmitted insurer that has filed an application with
13 the commissioner and been approved for placement of surplus
14 lines insurance and appears on the Iowa listing of nonadmitted
15 companies.

16 b. A nonadmitted insurer domiciled outside of the United
17 States that is listed on the quarterly listing of alien
18 insurers maintained by the national association of insurance
19 commissioners.

20 c. A domestic surplus lines insurer authorized by the
21 commissioner.

22 Sec. 3. Section 515I.3, Code 2019, is amended to read as
23 follows:

24 **515I.3 Placement of surplus lines insurance business with**
25 **nonadmitted insurers and domestic surplus lines insurers.**

26 1. Surplus lines insurance may be placed by a surplus lines
27 insurance producer with a nonadmitted insurer or domestic
28 surplus lines insurer only if all of the following requirements
29 are met:

30 a. The proposed nonadmitted insurer or domestic surplus
31 lines insurer is an eligible surplus lines insurer.

32 b. The proposed nonadmitted insurer or domestic surplus
33 lines insurer is authorized to write the type of insurance
34 sought in this state in its domiciliary jurisdiction.

35 c. Unless otherwise exempt from this requirement, after a

1 diligent search the full amount or type of insurance cannot be
2 obtained from an admitted insurer.

3 *d.* All other requirements of [this chapter](#) are met.

4 2. *a.* In addition to the full amount of gross premiums
5 charged by the nonadmitted insurer or domestic surplus lines
6 insurer for the insurance on which a premium tax is imposed
7 for surplus lines insurance for which the insured's home state
8 is Iowa, a surplus lines insurance producer shall collect and
9 pay to the state of Iowa the appropriate amount of premium tax
10 as provided in [section 432.1](#) for surplus lines insurance. The
11 commissioner shall adopt rules to specify the use of credits or
12 deductions that may be applied to the premium tax.

13 *b.* The tax on any portion of the premium unearned at the
14 termination of the surplus lines insurance that has been
15 credited by the state shall be returned to the policyholder
16 directly by the surplus lines insurance producer. The surplus
17 lines insurance producer is prohibited from rebating, for any
18 reason, any part of the tax.

19 3. [This section](#) shall not apply to a person properly
20 licensed as an insurance producer, who, for a fee and pursuant
21 to a written agreement, is engaged solely to offer advice,
22 counsel, opinion, or service to an insured with respect to
23 the benefits, advantages, or disadvantages promised under
24 any proposed or in-force policy of insurance if the person
25 does not, directly or indirectly, participate in the sale,
26 solicitation, or negotiation of insurance on behalf of the
27 insured.

28 4. Insurance placed under [this section](#) shall be valid and
29 enforceable as to all parties.

30 Sec. 4. NEW SECTION. 515I.4A **Requirements for domestic**
31 **surplus lines insurers.**

32 1. An insurer that is domiciled in this state may apply
33 to the commissioner for licensure as a domestic surplus lines
34 insurer if all of the following requirements are met:

35 *a.* The insurer possesses policyholder surplus of the greater

1 of either fifteen million dollars or three hundred percent of
2 authorized-control-level risk-based capital pursuant to chapter
3 521E.

4 *b.* The insurer is an eligible surplus lines insurer in at
5 least one jurisdiction other than this state.

6 *c.* The board of directors of the insurer has passed a
7 resolution seeking approval as a domestic surplus lines insurer
8 in this state and stating that the insurer shall only write
9 surplus line business. The resolution shall not be amended
10 without approval of the commissioner.

11 *d.* The commissioner has approved the insurer as a domestic
12 surplus lines insurer in this state.

13 2. For the purposes of the federal Nonadmitted and
14 Reinsurance Reform Act of 2010, 15 U.S.C. §8201 et seq.,
15 a domestic surplus lines insurer shall be considered a
16 nonadmitted insurer as the term is referenced in the Act, with
17 respect to risks insured in this state.

18 3. A domestic surplus lines insurer shall be deemed
19 an eligible surplus lines insurer and is subject to all
20 requirements of this chapter that are applicable to an eligible
21 surplus lines insurer. A domestic surplus lines insurer is
22 authorized to write any kind of insurance that a nonadmitted
23 insurer not domiciled in this state is eligible to write.

24 4. Notwithstanding any other provision of law to the
25 contrary, a policy or contract issued in this state by a
26 domestic surplus lines insurer shall be subject to taxes
27 assessed on a surplus lines policy or contract issued by a
28 nonadmitted insurer, including the premium tax on surplus lines
29 insurance, but shall not be subject to other taxes levied on an
30 admitted insurer, whether domestic or foreign.

31 5. A policy or contract issued by a domestic surplus lines
32 insurer is not a policy or contract for which coverage is
33 provided under the Iowa insurance guaranty association pursuant
34 to chapter 515B or the Iowa life and health insurance guaranty
35 association pursuant to chapter 508C.

1 6. All financial and solvency requirements imposed in this
2 state upon a domestic admitted insurer are applicable to a
3 domestic surplus lines insurer unless a domestic surplus lines
4 insurer is specifically exempted from such requirements.

5 7. A policy or contract issued by a domestic surplus lines
6 insurer in this state is exempt from all requirements imposed
7 in this state relating to insurance rating plans, policy or
8 contract forms, policy or contract cancellation and nonrenewal,
9 or premiums charged to the insured in the same manner and to
10 the same extent as a policy or contract issued by a nonadmitted
11 insurer domiciled in another state.

12	EXPLANATION
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13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 This bill establishes requirements for domestic surplus
16 lines insurers in the state. A "domestic surplus lines
17 insurer" is an insurer that is domiciled in this state and has
18 been authorized by the insurance commission to do business as
19 a domestic surplus lines insurer with which a surplus lines
20 insurance producer may place surplus lines insurance. The bill
21 specifies requirements that a nonadmitted insurer domiciled in
22 this state must meet to be considered a domestic surplus lines
23 insurer.

24 A domestic surplus lines insurer is considered a nonadmitted
25 insurer as that term is used in the federal Nonadmitted
26 and Reinsurance Reform Act of 2010. A domestic surplus
27 lines insurer that has been authorized by the commissioner
28 is an eligible surplus lines insurer and is subject to all
29 requirements of Code chapter 515I that are applicable to an
30 eligible surplus lines insurer. A domestic surplus lines
31 insurer is authorized to write any kind of insurance that a
32 nonadmitted insurer not domiciled in this state is eligible to
33 write.

34 Notwithstanding any other provision of law to the contrary,
35 a policy or contract issued in this state by a domestic surplus

1 lines insurer is subject to the same taxes as are assessed on a
2 policy or contract issued by a nonadmitted insurer, including
3 the premium tax on surplus lines insurance, but is not subject
4 to other taxes levied on an admitted insurer, whether domestic
5 or foreign. A policy or contract issued by a domestic surplus
6 lines insurer is not subject to the jurisdiction of the Iowa
7 insurance guaranty association pursuant to Code chapter 515B
8 or the Iowa life and health insurance guaranty association
9 pursuant to Code chapter 508C.

10 All financial and solvency requirements imposed in this
11 state upon a domestic admitted insurer are applicable to a
12 domestic surplus lines insurer unless a domestic surplus lines
13 insurer is specifically exempted from such requirements. The
14 bill exempts a policy or contract issued by a domestic surplus
15 lines insurer from all requirements imposed in this state
16 relating to insurance rating plans, policy or contract forms,
17 policy or contract cancellation and nonrenewal, and premiums
18 charged to the insured in the same manner and to the same
19 extent as a policy or contract issued by a nonadmitted insurer
20 domiciled in another state.